



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 2, 1998

Ms. Tracy B. Calabrese
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR98-0314

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112290.

The Houston Police Department (the "department") received an open records request for "a copy of the complete criminal investigation/report in regard to incident #101741197." In response to the request, you submitted to this office for review the information which you assert is responsive. You state that the department intends to release the "Public Release" front page offense report information to the requestor in accordance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). However, you seek to withhold the remaining information pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.108 of the Government Code reads as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

See Gov't Code § 552.108. You explain that "two suspects have been arrested and charges have been accepted by the District Attorney's Office. . . . [and] at this time there has been no disposition of the criminal case." Based on the submitted information and your arguments, it is evident that the case investigation is ongoing and the material at issue is information of a law enforcement agency that deals with the investigation and prosecution of crime. Accordingly, we conclude that the department may withhold the requested information from the requestor based on section 552.108(a)(1).

As you have noted, certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public.

See Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). However, you have not indicated which portions of the offense report have been made available to requestor. Thus, assuming the department's "public release portion" of the report contains the information considered to be "front page information," under *Houston Chronicle*, including a detailed description of the offense, you may withhold the remaining information from disclosure pursuant to section 552.108. You may choose, however, to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large loop at the beginning.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 112290

Enclosures: Submitted documents

cc: Ms. Stacy L. Little
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(w/o enclosures)